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Agenda item 78

Criminal accountability of United Nations officials and experts on mission**Report of the Sixth Committee**

Rapporteur: Mr. Jean-Cédric **Janssens de Bisthoven** (Belgium)

I. Introduction

1. The item entitled "Criminal accountability of United Nations officials and experts on mission" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly resolution 63/119 of 11 December 2008.
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 7th, 14th, 18th and 25th meetings, on 13, 23 and 28 October and on 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.7, 14, 18 and 25).
4. For its consideration of the item, the Committee had before it the following documents:
 - (a) Report of the Secretary-General on the criminal accountability of United Nations officials and experts on mission (A/64/183 and Add.1);¹
 - (b) Report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980);
 - (c) Note by the Secretariat on the criminal accountability of United Nations officials and experts on mission (A/62/329).

¹ A previous report of the Secretary-General on the same subject is contained in document A/63/260 and Add.1.



5. Pursuant to General Assembly resolution 63/119 of 11 December 2008, the Sixth Committee, at its 1st meeting, on 5 October, established a Working Group to continue the consideration of the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300 (A/60/980), focusing on its legal aspects, taking into account the views of Member States and the information contained in the note by the Secretariat (A/62/329).

6. Also at its 1st meeting, the Sixth Committee elected Ms. Maria Telalian (Greece) as the Chairperson of the Working Group. The Committee also decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held two meetings, on 13 and 15 October.

7. At the 14th meeting, on 23 October, the Chairperson of the Working Group presented an oral report on the work of the Working Group (see A/C.6/64/SR.14).

II. Consideration of draft resolution A/C.6/64/L.8

8. At the 18th meeting, on 28 October, the representative of Greece, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission" (A/C.6/64/L.8).

9. At its 25th meeting, on 12 November, the Committee adopted draft resolution A/C.6/64/L.8 without a vote (see para. 10).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Criminal accountability of United Nations officials and experts on mission

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation of the Special Committee on Peacekeeping Operations that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,¹

Recalling also that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,²

Recalling further its resolution 59/300 of 22 June 2005, in which it endorsed the recommendation of the Special Committee on Peacekeeping Operations that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized without due process,³

Recognizing the valuable contribution of United Nations officials and experts on mission towards the fulfilment of the principles and purposes of the Charter,

Reaffirming the need to promote and ensure respect for the principles and rules of international law,

Reaffirming also that the present resolution is without prejudice to the privileges and immunities of United Nations officials and experts on mission and the United Nations under international law,

Reaffirming further the obligation of United Nations officials and experts on mission to respect the national laws of the host State, as well as the right of the host State to exercise, where applicable, its criminal jurisdiction, in accordance with the relevant rules of international law and agreements governing operations of United Nations missions,

Deeply concerned by reports of criminal conduct, and conscious that such conduct, if not investigated and, as appropriate, prosecuted, would create the negative impression that United Nations officials and experts on mission operate with impunity,

¹ See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part one, chap. III, sect. D, para. 56.

² See A/59/710.

³ See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part two, chap. II, sect. N, para. 40 (a).

Reaffirming the need to ensure that all United Nations officials and experts on mission function in a manner that preserves the image, credibility, impartiality and integrity of the United Nations,

Emphasizing that crimes committed by such persons are unacceptable and have a detrimental effect on the fulfilment of the mandate of the United Nations, in particular with respect to the relations between the United Nations and the local population in the host country,

Conscious of the importance of protecting the rights of victims of criminal conduct, as well as of ensuring adequate protection for witnesses, and recalling the adoption of its resolution 62/214 of 21 December 2007 on the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel,

Emphasizing the need to enhance international cooperation to ensure the criminal accountability of United Nations officials and experts on mission,

Recalling its resolution 61/29 of 4 December 2006, by which it established the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission,

Having considered the report of the Group of Legal Experts established by the Secretary-General pursuant to its resolution 59/300⁴ and the report of the Ad Hoc Committee,⁵ as well as the note by the Secretariat⁶ and the reports of the Secretary-General⁷ on criminal accountability of United Nations officials and experts on mission,

Recalling its resolutions 62/63 of 6 December 2007 and 63/119 of 11 December 2008,

Convinced of the need for the United Nations and its Member States to urgently take strong and effective steps to ensure criminal accountability of United Nations officials and experts on mission in the interest of justice,

1. *Expresses its appreciation* for the work done by the Working Group of the Sixth Committee on criminal accountability of United Nations officials and experts on mission;

2. *Strongly urges* States to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process;

3. *Strongly urges* all States to consider establishing to the extent that they have not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct

⁴ See A/60/980.

⁵ *Official Records of the General Assembly, Sixty-third Session, Supplement No. 54* (A/63/54).

⁶ A/62/329.

⁷ A/63/260 and Add.1 and A/64/183 and Add.1.

as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State;

4. *Encourages* all States to cooperate with each other and with the United Nations in the exchange of information and in facilitating the conduct of investigations and, as appropriate, prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature, in accordance with their domestic laws and applicable United Nations rules and regulations, fully respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes;

5. *Also encourages* all States:

(a) To afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at their disposal, in accordance with their domestic law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them;

(b) In accordance with their domestic law, to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations;

(c) In accordance with their domestic law, to provide effective protection for victims of, witnesses to, and others who provide information in relation to, crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission and to facilitate access by victims to victim assistance programmes, without prejudice to the rights of the alleged offender, including those relating to due process;

(d) In accordance with their domestic law, to explore ways and means of responding adequately to requests by host States for support and assistance in order to enhance their capacity to conduct effective investigations in respect of crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission;

6. *Requests* the Secretariat to continue to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and behaviour and be aware that certain conduct may amount to a crime for which they may be held accountable;

7. *Urges* the Secretary-General to continue to take such other practical measures as are within his authority to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training for United Nations officials and experts on mission;

8. *Decides*, bearing in mind its resolutions 62/63 and 63/119, that the consideration of the report of the Group of Legal Experts, in particular its legal aspects,⁴ taking into account the views of Member States and the information contained in the note by the Secretariat,⁶ shall be continued during its sixty-seventh session in the framework of a working group of the Sixth Committee;

9. *Requests* the Secretary-General to bring credible allegations that reveal that a crime may have been committed by United Nations officials or experts on mission to the attention of the States against whose nationals such allegations are made and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance that States may wish to receive from the Secretariat for the purposes of such investigations and prosecutions;

10. *Requests* the United Nations, when its investigations into allegations suggest that crimes of a serious nature may have been committed by United Nations officials or experts on mission, to consider any appropriate measures that may facilitate the possible use of information and material for purposes of criminal proceedings initiated by States, bearing in mind due process considerations;

11. *Encourages* the United Nations, when allegations against United Nations officials or experts on mission are determined by a United Nations administrative investigation to be unfounded, to take appropriate measures, in the interests of the Organization, to restore the credibility and reputation of such officials and experts on mission;

12. *Urges* the United Nations to continue cooperating with States exercising jurisdiction in order to provide them, within the framework of the relevant rules of international law and agreements governing activities of the United Nations, with information and material for purposes of criminal proceedings initiated by States;

13. *Emphasizes* that the United Nations, in accordance with the applicable rules of the Organization, should take no action that would retaliate against or intimidate United Nations officials and experts on mission who report allegations concerning crimes of a serious nature committed by United Nations officials and experts on mission;

14. *Takes note with appreciation* of the information provided by Governments in response to its resolutions 62/63 and 63/119, and *urges* Governments to continue taking the measures necessary for the implementation of those resolutions, including their provisions addressing the establishment of jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, as well as cooperation among States;

15. *Reiterates its request* to the Secretary-General to report to the General Assembly at its sixty-fifth session on the implementation of the present resolution, in particular with respect to paragraphs 3, 5 and 9 above, as well as any practical problems in its implementation, on the basis of information received from Governments and the Secretariat;

16. *Requests* the Secretary-General to include in his report information on the number and types of credible allegations and any actions taken by the United Nations and its Member States regarding crimes of a serious nature committed by United Nations officials and experts on mission;

17. *Also requests* the Secretary-General to include in his report information on how the United Nations might support Member States, at their request, in the development of domestic criminal law relevant to crimes of a serious nature

committed by their nationals while serving as United Nations officials or experts on mission;

18. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "Criminal accountability of United Nations officials and experts on mission".



Report of the Sixth Committee

1. Introduction

1. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fourth session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-second session" and to allocate it to the Sixth Committee.
2. The Sixth Committee considered the item at its 6th, 22nd and 25th meetings, on 10 October and on 2 and 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.6, 22 and 25).
3. For its consideration of the item, the Committee had before it the report of the United Nations Commission on International Trade Law on the work of its forty-second session.¹
4. At the 6th meeting, on 12 October, the Chairperson of the United Nations Commission on International Trade Law at its forty-second session introduced the report of the Commission on the work of its forty-second session.

¹ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17).*

II. Consideration of proposals

A. Draft resolution A/C.6/64/L.10

5. At the 22nd meeting, on 2 November, the representative of Austria, on behalf of Albania, Algeria, Argentina, Armenia, Australia, Austria, Bangladesh, Belarus, Brazil, Bulgaria, Cameroon, Canada, Chile, China, the Congo, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, the Dominican Republic, Egypt, Estonia, Fiji, Finland, Gabon, Germany, Ghana, Greece, Guatemala, Hungary, Ireland, Israel, Italy, Japan, Jordan, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Morocco, the Netherlands, New Zealand, Nigeria, Norway, Paraguay, the Philippines, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Venezuela (Bolivarian Republic of), subsequently joined by Afghanistan, Benin, India, Iran (Islamic Republic of), Jamaica, Latvia, Malaysia and the Republic of Moldova, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-second session" (A/C.6/64/L.10).

6. At its 25th meeting, on 12 November, the Committee adopted draft resolution A/C.6/64/L.10 without a vote (see para. 9, draft resolution I).

B. Draft resolution A/C.6/64/L.11

7. At the 22nd meeting, on 2 November, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "Practice Guide on Cross-Border Insolvency Cooperation of the United Nations Commission on International Trade Law" (A/C.6/64/L.11).

8. At its 25th meeting, on 12 November, the Committee adopted draft resolution A/C.6/64/L.11 without a vote (see para. 9, draft resolution II).

III. Recommendations of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Report of the United Nations Commission on International Trade Law on the work of its forty-second session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission on the work of its forty-second session,¹

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its forty-second session;¹

2. *Commends* the Commission for the completion and adoption of its Practice Guide on Cross-Border Insolvency Cooperation;²

¹ Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17).

² Ibid., para. 24.

3. *Welcomes* the progress made by the Commission in its work on a revision of its Model Law on Procurement of Goods, Construction and Services³ through the consideration of chapter I of the draft revised model law,⁴ and encourages the Commission to complete its work on the revised model law as soon as possible;

4. *Also welcomes* the progress made by the Commission in its work on a revision of its Arbitration Rules,⁵ on the preparation of a draft legislative guide on the treatment of enterprise groups in insolvency and on the preparation of a supplement to its Legislative Guide on Secured Transactions⁶ dealing with security rights in intellectual property, and endorses the decision of the Commission to undertake further work in the area of arbitration, electronic commerce, transport law and commercial fraud and to consider at its forty-third session proposals for future work in the areas of insolvency and security interests, as set out in its report;

5. *Further welcomes* the decision of the Commission to request the Secretariat to hold, resources permitting, an international colloquium on electronic commerce and another international colloquium on security interests;⁷

6. *Notes with appreciation* the decision of the Commission with regard to the publication of its Legislative Guide on Secured Transactions, of a commentary on the United Nations Convention on the Assignment of Receivables in International Trade⁸ and of a text discussing the interrelationship of various texts on security interests prepared by the Commission, the International Institute for the Unification of Private Law and the Hague Conference on Private International Law;⁹

7. *Also notes with appreciation* the decision of the Commission to commend the use of the 2007 revision of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, as appropriate, in transactions involving the establishment of a documentary credit;¹⁰

8. *Welcomes* the progress made in the ongoing project of the Commission on monitoring the implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958,¹¹ and the preparation of a draft guide to enactment of the Convention to promote a uniform interpretation and application of the Convention;¹²

9. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of, and cooperation on, legal activities of international

³ Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

⁴ Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 283.

⁵ United Nations publication, Sales No. E.93.V.6.

⁶ Adopted by the Commission at its resumed fortieth session. See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17* (A/62/17), part two, para. 100.

⁷ See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 319 and 343.

⁸ Resolution 56/81, annex.

⁹ See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 315 and 321.

¹⁰ Ibid., para. 357.

¹¹ United Nations, *Treaty Series*, vol. 330, No. 4739.

¹² See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 360.

and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

10. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance and cooperation in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical assistance and cooperation programme, and in that respect encourages the Secretary-General to seek partnerships with State and non State actors to increase awareness about the work of the Commission and to facilitate the effective implementation of legal standards resulting from its work;

(b) Expresses its appreciation to the Commission for carrying out technical assistance and cooperation activities, including at the country, subregional and regional levels, and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical assistance and cooperation activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects and otherwise to assist the secretariat of the Commission in carrying out technical assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the light of the relevance and importance of the work and programmes of the Commission for promotion of the rule of law at the national and international levels and for the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

(e) Notes the request by the Commission that the Secretariat explore the possibility of establishing a presence in regions or specific countries by, for example, having dedicated staff in United Nations field offices, collaborating with such existing field offices or establishing Commission country offices with a view to facilitating the provision of technical assistance with respect to the use and adoption of Commission texts;¹³

11. *Expresses its appreciation* to the Government whose contribution to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-

¹³ Ibid., para. 363.

General,¹⁴ enabled renewal of the provision of that assistance, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment;

12. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-fourth session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

13. *Welcomes*, in the light of the recent increase in membership of the Commission and the number of topics being dealt with by the Commission, the comprehensive review undertaken by the Commission of its working methods, which was started at its fortieth session, with the aim of continuing consideration of the matter during its next sessions and with a view to ensuring the high quality of the work of the Commission and international acceptability of its instruments,¹⁵ and in this regard recalls its previous resolutions related to this matter;

14. *Also welcomes* the discussion by the Commission of its role in promoting the rule of law at the national and international levels, in particular the conviction of the Commission that the implementation and effective use of modern private law standards on international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General, and the fact that the Commission is looking forward to being part of strengthened and coordinated activities of the Organization and sees its role, in particular, as providing assistance to States that seek to promote the rule of law in the area of international and domestic trade and investment;¹⁶

15. *Further welcomes* the consideration by the Commission of the proposed strategic framework for the period 2010-2011 and its review of the proposed biennial programme plan for the progressive harmonization, modernization and unification of the law of international trade (subprogramme 5), and takes note that, while the Commission noted with satisfaction that the objectives and expected accomplishments of the Secretariat and the overall strategy for subprogramme 5 were in line with its general policy, the Commission also expressed concern that the resources allotted to the Secretariat under subprogramme 5 were insufficient for it to meet, in particular, the increased demand for technical assistance from developing countries and countries with economies in transition to meet their urgent need for law reform in the field of commercial law and urged the Secretary-General to take

¹⁴ See resolution 48/32, para. 5.

¹⁵ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 373-381.

¹⁶ *Ibid.*, para. 386.

steps to ensure that the comparatively small amount of additional resources necessary to meet a demand so crucial to development are made available promptly;¹⁷

16. *Recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,¹⁸ and its resolutions in which it encouraged the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;¹⁹

17. *Reiterates its request* to the Secretary-General, in conformity with its resolutions on documentation-related matters,²⁰ which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

18. *Requests* the Secretary-General to continue providing summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts;

19. *Recalls* its resolution approving the establishment of the *Yearbook of the United Nations Commission on International Trade Law*, with the aim of making the work of the Commission more widely known and readily available,²¹ expresses its concern regarding the timeliness of the publication of the *Yearbook*, and requests the Secretary-General to explore options to facilitate the timely publication of the *Yearbook*;

20. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

21. *Welcomes* the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods²² and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,²³ with the aim of assisting in the dissemination of information on those texts and promoting their use, enactment and uniform interpretation.

¹⁷ Ibid., para. 391.

¹⁸ Resolutions 55/215, 56/76, 58/129 and 60/215.

¹⁹ Resolutions 59/39, 60/20 and 61/32.

²⁰ Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

²¹ Resolution 2502 (XXIV), para. 7.

²² United Nations, *Treaty Series*, vol. 1489, No. 25567.

²³ *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17)*, annex I.

Draft resolution II

Practice Guide on Cross-Border Insolvency Cooperation of the United Nations Commission on International Trade Law

The General Assembly,

Noting that increased trade and investment leads to a greater incidence of cases where business is conducted on a global basis and where enterprises and individuals have assets and interests in more than one State,

Noting also that, where the subjects of insolvency proceedings are debtors with assets in more than one State or are members of an enterprise group with business operations and assets in more than one State, there is generally an urgent need for cross-border cooperation in, and coordination of, the supervision and administration of the assets and affairs of those debtors,

Recognizing that cooperation and coordination in cross-border insolvency cases has the potential to significantly improve the chances for rescuing financially troubled individuals and enterprise groups,

Acknowledging that familiarity with cross-border cooperation and coordination and the means by which it might be implemented in practice is not widespread and that the availability of readily accessible information on current practice with respect to cross-border coordination and cooperation has the potential to facilitate and promote that cooperation and coordination and to avoid unnecessary delay and costs,

Noting with satisfaction the completion and the adoption on 1 July 2009 of the Practice Guide on Cross-Border Insolvency Cooperation by the United Nations Commission on International Trade Law at its forty-second session,¹

Noting that the preparation of the Practice Guide was the subject of deliberations and consultation with Governments, judges and other professionals active in the field of cross-border insolvency,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for the completion and adoption of its Practice Guide on Cross-Border Insolvency Cooperation;¹

2. *Requests* the Secretary-General to publish, including electronically, the text of the Practice Guide and to transmit it to Governments with the request that the text be made available to relevant authorities so that it becomes widely known and available;

3. *Recommends* that the Practice Guide be given due consideration, as appropriate, by judges, insolvency practitioners and other stakeholders involved in cross-border insolvency proceedings;

4. *Recommends also* that all States continue to consider implementation of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law.²

¹ See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17* (A/64/17), chap. III.

² Resolution 52/158, annex.

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Agenda item 80

**United Nations Programme of Assistance in the Teaching,
Study, Dissemination and Wider Appreciation of
International Law****Report of the Sixth Committee**

Rapporteur: Mr. Jean-Cédric Janssens de Bisthoven (Belgium)

I. Introduction

1. The item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly resolution 62/62 of 6 December 2007.
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 24th and 25th meetings, on 4 and 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.24 and 25).
4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/64/495).

II. Consideration of draft resolution A/C.6/64/L.17

5. At the 25th meeting, on 12 November, the representative of Ghana, on behalf of the Bureau, introduced a draft resolution entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" (A/C.6/64/L.17).
6. At the same meeting, the Committee adopted draft resolution A/C.6/64/L.17 without a vote (see para. 8).
7. Also at the same meeting, the representative of Ghana made a statement in explanation of position (see A/C.6/64/SR.25).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Recalling its resolution 2099 (XX) of 20 December 1965, in which it established the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to contribute towards a better knowledge of international law as a means of strengthening international peace and security and of promoting friendly relations and cooperation among States,

Recognizing that the Programme of Assistance is a core activity of the United Nations and that the Programme has provided the foundation for the efforts of the United Nations to promote a better knowledge of international law for more than four decades,

Recognizing also that the increasing demand for international law training and dissemination activities creates new challenges for the Programme of Assistance,

Taking note with appreciation of the report of the Secretary-General on the implementation of the Programme of Assistance¹ and the views of the Advisory Committee on the Programme of Assistance, which are contained in that report,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

Convinced that States, international and regional organizations, universities and institutions should be encouraged to give further support to the Programme of Assistance and increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

Reaffirming that in the conduct of the Programme of Assistance it would be desirable to use as far as possible the resources and facilities made available by Member States, international and regional organizations, universities, institutions and others,

Reaffirming also the hope that, in appointing lecturers for the seminars to be held within the framework of the fellowship programmes in international law, account would be taken of the need to secure the representation of major legal systems and balance among various geographical regions,

1. *Approves* the guidelines and recommendations contained in section III of the report of the Secretary-General,¹ in particular those designed to achieve the best possible results in the administration of the United Nations Programme of

¹ A/64/495.

Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law within a policy of maximum financial restraint;

2. *Authorizes* the Secretary-General to carry out in 2010 and 2011 the activities specified in his report, including the provision of:

(a) A number of fellowships to be determined in the light of the overall resources for the Programme of Assistance and to be awarded to qualified candidates from developing countries to attend the International Law Fellowship Programme in The Hague in 2010 and 2011;

(b) A number of fellowships to be determined in the light of the overall resources for the Programme of Assistance and to be awarded to qualified candidates from developing countries to attend regional courses in international law in 2010 and 2011;

and to finance the above activities from provisions in the regular budget, when appropriate, as well as from voluntary financial contributions for these fellowships, which would be received as a result of the requests set out in paragraphs 19 to 21 below;

3. *Also authorizes* the Secretary-General to award a minimum of one scholarship in both 2010 and 2011 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, subject to the availability of new voluntary contributions made specifically for this fellowship;

4. *Expresses its appreciation* to the Secretary-General for his efforts to strengthen, expand and enhance the international law training and dissemination activities within the framework of the Programme of Assistance in 2008 and 2009;

5. *Requests* the Secretary-General to consider admitting, for participation in the various components of the Programme of Assistance, candidates from countries willing to bear the entire cost of such participation;

6. *Also requests* the Secretary-General to continue to provide the necessary resources to the programme budget for the Programme of Assistance for the next and the future bienniums with a view to ensuring the continued effectiveness of the Programme of Assistance;

7. *Recognizes* the importance of the United Nations legal publications prepared by the Office of Legal Affairs of the Secretariat, and strongly encourages their continued publication;

8. *Welcomes* the efforts undertaken by the Office of Legal Affairs to bring up to date the United Nations legal publications, and, in particular, commends the Codification Division for its desktop publishing initiative, which has greatly enhanced the timely issuance of its legal publications;

9. *Welcomes* the creation by the Codification Division of the new websites for the *United Nations Juridical Yearbook*,² the United Nations diplomatic conferences,³ and the United Nations legal publications portal, as well as the

² www.un.org/law/UNJuridicalYearbook/index.htm

³ <http://untreaty.un.org/cod/diplomaticconferences/index.html>.

expansion of the website on the *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice*;⁴

10. *Encourages* the Office of Legal Affairs to continue to maintain and expand its websites listed in annex I to the report of the Secretary-General¹ as an invaluable tool for the dissemination of international law materials as well as for advanced legal research;

11. *Recognizes the importance of the United Nations Audiovisual Library of International Law* as a major contribution to the teaching and dissemination of international law around the world, and urges States to make voluntary contributions to enable the Codification Division to continue and further develop the Library;

12. *Commends* the Codification Division on the 2009 Best Website Award granted to the United Nations Audiovisual Library of International Law by the International Association of Law Libraries at its annual meeting, held in Turkey in October 2009;

13. *Requests* the Secretary-General to provide relevant information to the Advisory Committee on the Programme of Assistance, to facilitate its consideration of the matter referred to in paragraph 89 of his report;¹

14. *Encourages* the use of the internship programme for the preparation of materials for the United Nations Audiovisual Library of International Law;

15. *Welcomes* the training and technical assistance activities in international law undertaken by the Office of Legal Affairs in the framework of the Programme of Assistance, as described in the report of the Secretary-General, and encourages the continuation of such activities within available resources;

16. *Expresses its appreciation* to the United Nations Institute for Training and Research for its participation in the Programme of Assistance through the activities described in the report of the Secretary-General;

17. *Also expresses its appreciation* to The Hague Academy of International Law for the valuable contribution it continues to make to the Programme of Assistance, which has enabled candidates under the International Law Fellowship Programme to attend and participate in the Fellowship Programme in conjunction with the Academy courses;

18. *Notes with appreciation* the contributions of The Hague Academy to the teaching, study, dissemination and wider appreciation of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes of the Centre for Studies and Research in International Law and International Relations;

19. *Requests* the Secretary-General to continue to publicize the Programme of Assistance and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the

⁴ www.un.org/law/UNlegalpublications/index.html.

financing of the Programme of Assistance or otherwise to assist in its implementation and possible expansion;

20. *Reiterates its request* to Member States and to interested organizations and individuals to make voluntary contributions, inter alia, for the International Law Fellowship Programme and the United Nations Audiovisual Library of International Law, and expresses its appreciation to those Member States, institutions and individuals that have made voluntary contributions for this purpose;

21. *Urges* in particular all Governments to make voluntary contributions for regional courses in international law, as an important complement to the International Law Fellowship Programme, organized by the Codification Division of the Office of Legal Affairs, thus alleviating the burden on prospective host countries and making it possible to resume the organization of regional courses;

22. *Requests* the Secretary-General to report to the General Assembly at its sixty-fifth session on the implementation of the Programme of Assistance during 2010 and, following consultations with the Advisory Committee on the Programme of Assistance, to submit recommendations regarding the execution of the Programme of Assistance in subsequent years;

23. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

**General Assembly**

Distr.: General
20 November 2009

Original: English

Sixty-fourth session
Agenda item 81

Report of the International Law Commission on the work of its sixty-first session**Report of the Sixth Committee**

Rapporteur: Mr. Jean-Cédric Janssens de Bisthoven (Belgium)

I. Introduction

1. The item entitled "Report of the International Law Commission on the work of its sixty-first session" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly resolution 63/123 of 11 December 2008.
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 15th to 23rd and 25th meetings, from 26 to 30 October and on 2, 3 and 12 November. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.15-23 and 25).
4. For its consideration of the item, the Committee had before it the report of the International Law Commission on the work of its sixty-first session.¹
5. The Chairman of the International Law Commission at its sixty-first session introduced the report of the Commission: chapters I to IV and XIII at the 15th meeting, on 26 October, chapters V and VI at the 17th meeting, on 28 October, chapters VII and VIII at the 18th meeting, on 28 October, and chapters IX, XI and XII at the 22nd meeting, on 2 November (see A/C.6/64/SR.15, 17, 18 and 22).

¹ Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 10 (A/64/10).

II. Consideration of draft resolution A/C.6/64/L.15

6. At the 25th meeting, on 12 November, the representative of the Islamic Republic of Iran, on behalf of the Bureau, introduced a draft resolution entitled "Report of the International Law Commission on the work of its sixty-first session" (A/C.6/64/L.15).

7. At the same meeting, the Committee adopted draft resolution A/C.6/64/L.15 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its sixty-first session

The General Assembly,

Having considered the report of the International Law Commission on the work of its sixty-first session,¹

Emphasizing the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,²

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Reaffirming the importance to the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

Recognizing the importance of the work of the special rapporteurs of the International Law Commission,

Recalling the role of Member States in submitting proposals for the consideration of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Acknowledging the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

¹ Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 10 (A/64/10).

² Resolution 2625 (XXV), annex.

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the General Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its sixty-first session,¹ and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its sixty-first session, in particular for the completion, on first reading, of the draft articles on the topic "Responsibility of international organizations";

3. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report, regarding:

- (a) Responsibility of international organizations;
- (b) Expulsion of aliens;
- (c) Shared natural resources;

4. *Invites* Governments, within the context of paragraph 3 above, to provide information to the International Law Commission regarding practice in respect of the topic "Expulsion of aliens";

5. *Draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 1 January 2011 on the draft articles and commentaries on the topic "Responsibility of international organizations" adopted on first reading by the Commission at its sixty-first session;³

6. *Takes note* of the report of the Secretary-General on assistance to special rapporteurs of the International Law Commission⁴ and of paragraphs 240 to 242 of the report of the International Law Commission, and requests the Secretary-General to submit to the General Assembly at its sixty-fifth session options regarding additional support for the work of special rapporteurs;

7. *Invites* the International Law Commission to continue taking measures to enhance its efficiency and productivity and to consider making proposals to that end;

³ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 10 (A/64/10), chap. IV, sect. C.*

⁴ A/64/283.

8. *Encourages* the International Law Commission to continue taking cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

9. *Takes note* of paragraph 244 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 3 May to 4 June and from 5 July to 6 August 2010;

10. *Welcomes* the enhanced dialogue between the International Law Commission and the Sixth Committee at the sixty-fourth session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-fifth session of the Assembly;

11. *Encourages* delegations, during the debate on the report of the International Law Commission, to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

12. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

13. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

14. *Takes note* of paragraphs 243 and 245 to 249 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (e), article 25 and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

15. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

16. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission;

17. *Approves* the conclusions reached by the International Law Commission in paragraph 232 of its report, and reaffirms its previous decisions concerning the documentation and summary records of the Commission;⁵

⁵ See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

18. *Takes note* of paragraph 233 of the report of the International Law Commission, and stresses the need to expedite the preparation of the summary records of the Commission;

19. *Also takes note* of paragraph 234 of the report of the International Law Commission and, without prejudice to the importance of ensuring necessary allocations in the regular budget, acknowledges the establishment by the Secretary-General of a trust fund to accept voluntary contributions so as to address the backlog relating to the *Yearbook of the International Law Commission*, and invites voluntary contributions to that end;

20. *Welcomes* the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;⁶

21. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

22. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

23. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the sixty-fourth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

24. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

25. *Encourages* the International Law Commission to continue considering ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

26. *Recommends* that the debate on the report of the International Law Commission at the sixty-fifth session of the General Assembly commence on 25 October 2010.

⁶ www.un.org/law/ilc.



General Assembly

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Sixty-fourth session
Agenda item 82

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Sixth Committee

Rapporteur: Mr. Jean-Cédric Janssens de Bisthoven (Belgium)

I. Introduction

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly resolution 63/127 of 11 December 2008.
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 11th and 25th meetings, on 19 October and 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.11 and 25).
4. For its consideration of the item, the Committee had before it the following documents:
 - (a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;¹
 - (b) Report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/64/125);

¹ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 33 (A/64/33).*

(c) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/64/225).

5. At the 11th meeting, on 19 October, the Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization introduced the report of the Special Committee (see A/C.6/64/SR.11).

II. Consideration of draft resolution A/C.6/64/L.9

6. At the 25th meeting, on 12 November, the representative of Egypt, on behalf of the Bureau, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/64/L.9).

7. At the same meeting, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

8. Also at the same meeting, the Committee adopted draft resolution A/C.6/64/L.9 without a vote (see para. 10).

9. The representative of the Islamic Republic of Iran, on behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries, made a statement in explanation of position before the adoption of the draft resolution (see A/C.6/64/SR.25).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,¹

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Mindful of the adoption of the revised working papers on the working methods of the Special Committee,²

¹ Official Records of the General Assembly, Sixty-third Session, Supplement No. 47 (A/63/47).

² Ibid., Sixty-first Session, Supplement No. 33 (A/61/33), para. 72.

*Taking note of the report of the Secretary-General on the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council,*³

*Taking note also of paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,*⁴

*Mindful of the decision of the Special Committee in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that might be taken at the High-level Plenary Meeting of the sixtieth session of the General Assembly in September 2005 that concerned the Charter and any amendments thereto,*⁵

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 63/127 of 11 December 2008,

*Having considered the report of the Special Committee on the work of its session held in 2009,*⁶

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;*⁶

2. *Takes note also of the document entitled "Introduction and implementation of sanctions imposed by the United Nations" as set out in the annex to the present resolution;*

3. *Decides that the Special Committee shall hold its next session from 1 to 9 March 2010;*

4. *Requests the Special Committee, at its session in 2010, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:*

(a) *To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2010;*

(b) *To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the*

³ A/64/125.

⁴ See resolution 60/1.

⁵ *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33 (A/60/33), para. 77.*

⁶ *Ibid., Sixty-fourth Session, Supplement No. 33 (A/64/33).*

provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General⁷ and the proposals submitted on the question;

(c) To keep on its agenda the question of the peaceful settlement of disputes between States;

(d) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the High-level Plenary Meeting of the sixtieth session of the Assembly in September 2005 that concern the Charter and any amendments thereto;

(e) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;

5. *Invites* the Special Committee at its session in 2010 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

6. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

7. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixty-fifth session;

8. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, takes note, consistent with Article 96 of the Charter, of the Court's advisory jurisdiction that may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

9. *Commends* the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

10. *Notes with appreciation* the contributions made by Member States to the trust fund for the updating of the *Repertoire*, as well as the trust fund for the elimination of the backlog in the *Repertory*;

11. *Reiterates* its call for voluntary contributions to the trust fund for the updating of the *Repertoire*; voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in

⁷ A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334, A/60/320, A/61/304, A/62/206 and Corr.1, A/63/224 and A/64/225.

carrying out the effective elimination of that backlog; as well as the sponsoring, on a voluntary basis, and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

12. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions;

13. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire*, calls upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of the report of the Secretary-General of 18 September 1952;⁸

14. *Requests* the Secretary-General to submit a report on both the *Repertory* and the *Repertoire* to the General Assembly at its sixty-fifth session;

15. *Also requests* the Secretary-General to brief the Special Committee at its next session on the information referred to in paragraph 11 of his report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions;⁹

16. *Further requests* the Secretary-General to submit a report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions to the General Assembly at its sixty-fifth session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization";

17. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

Annex

Introduction and implementation of sanctions imposed by the United Nations

I. General issues

1. Sanctions remain an important tool under the Charter of the United Nations in efforts to maintain international peace and security without recourse to the use of force. Sanctions should be carefully targeted in support of clear and legitimate objectives under the Charter and be implemented in ways that balance effectiveness to achieve the desired results against possible adverse consequences, including socio-economic and humanitarian consequences, for populations and third States.

2. The purpose of sanctions is to modify the behaviour of the target State, party, individual or entity threatening international peace and security and not to punish or otherwise exact retribution. Sanctions regimes should be commensurate with these objectives.

3. Sanctions may be resorted to by the Security Council when it determines the existence of any threat to the peace, breach of the peace, or act of aggression. The Security Council should be guided by the approach taken in annex II to General

⁸ A/2170.

⁹ A/64/225.

Assembly resolution 51/242, where it is indicated that sanctions should be resorted to only with the utmost caution, when other peaceful options provided by the Charter are inadequate. The reasons that necessitate the imposition of sanctions should be identified and stated in advance.

4. The Security Council should introduce sanctions in conformity with the provisions of the Charter, taking into account other applicable rules of international law, in particular all of those related to human rights and fundamental freedoms.

5. Best practices and guidelines adopted by the Security Council and the General Assembly in the field of sanctions, in particular those contained in the 2005 World Summit Outcome, General Assembly resolution 51/242 and Security Council resolutions 1730 (2006), 1735 (2006) and 1822 (2008), should be taken into account in the elaboration and implementation of sanctions regimes. The best practices and methods contained in the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997), as taken note of in Security Council resolution 1732 (2006), might also be considered for these purposes.

6. Sanctions should be implemented and monitored effectively with clear benchmarks and should, as appropriate, have an expiration date or be periodically reviewed with a view to lifting them or not, or to adjusting them, taking into account the humanitarian situation and depending on the fulfilment by the target State and other parties of the requirements of the Security Council. Sanctions should remain in place for as limited a period as necessary to achieve their objectives and be lifted once their objectives have been achieved.

7. Sanctions regimes with regard to individuals and entities should ensure that the decision to list such individuals and entities is based on fair and clear procedures, including, as appropriate, a detailed statement of case provided by Member States, and that regular reviews of names on the list are conducted; ensure, to the degree possible, maximum specificity in identifying individuals and entities to be targeted; and ensure also that fair and clear procedures for de-listing exist early in sanctions regimes. Listed individuals and entities should be notified of the decision and of as much detail as possible in the publicly releasable portion of the statement of case. There should be an appropriate mechanism for handling individuals' or entities' requests for de-listing.

II. Unintended side effects of sanctions

8. Sanctions should avoid to the extent possible adverse humanitarian effects or unintended consequences for individuals and entities not targeted or third States. Targeted sanctions are a way of achieving this.

9. An objective assessment of the short-term and long-term socio-economic and humanitarian consequences of sanctions should be conducted by the Security Council and its sanctions committees with the assistance of the Secretariat at the stage of their preparation, as appropriate, and in the course of their implementation. In this regard, the methodology for the assessment of the humanitarian implications of sanctions reflected in the *Sanctions Assessment Handbook* (2004) might be useful.

10. Information on the humanitarian consequences of the introduction and implementation of sanctions, including those which have a bearing on the basic living conditions of the civilian population of the target State, on its socio-economic

development and on third States which have suffered or may suffer as a result of their implementation, may be useful for the Security Council and its sanctions committees to consider.

11. To the maximum extent possible, situations in which the consequences of the introduction of sanctions would inflict considerable material and financial harm on third States or in which the civilian population in the target State or third States would experience considerable adverse consequences should be avoided.

12. Humanitarian and other exemptions should be made available in a consistent manner to all targeted measures such as arms embargoes, travel restrictions, aviation bans and financial sanctions, and considered in accordance with fair and clear procedures.

13. Efforts should be made to ensure that sanctions regimes do not hinder an adequate supply of humanitarian assistance from reaching the civilian population. Targeted States and parties should cooperate to this end. Essential humanitarian assistance should be considered for exemption by the relevant United Nations bodies, including the sanctions committees.

14. The principles of neutrality, independence, transparency, impartiality and non discrimination should guide the provision of humanitarian and medical assistance and other forms of humanitarian support for all sectors and groups of the civilian population.

15. Humanitarian and medical assistance and other forms of humanitarian support for all sectors and groups of the civilian population should not be provided without the consent of the recipient State or a request on its part.

16. In emergency situations and cases of force majeure (natural disasters, threat of famine, mass disturbances resulting in the disorganization of the country's Government), consideration should be given to the suspension of sanctions in order to prevent a humanitarian disaster. A decision on this must be taken in each specific case.

17. Decisions on sanctions should be in accordance with the purposes and principles set out in the Charter of the United Nations. Sanctions regimes should be designed to avoid unintended consequences in the target State or third States which may lead to violations of human rights and fundamental freedoms.

III. Implementation

18. Sanctions should be implemented in good faith by all States.

19. Monitoring and compliance are first and foremost the responsibility of individual Member States. Member States should endeavour to prevent or correct activities in violation of the sanctions measures within their jurisdiction. In this regard the provisions of the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997) should be taken into account, as appropriate.

20. International monitoring by the Security Council or by one of its subsidiary organs of compliance with sanctions measures, in accordance with relevant Security Council resolutions, can contribute to the effectiveness of United Nations sanctions. States that may require assistance in the implementation and monitoring of sanctions

may seek the assistance of the United Nations or relevant regional organizations and donors.

21. States and relevant international and regional organizations with the capacity to do so should be encouraged to offer appropriate technical and financial assistance to other States to enhance their capacity to implement sanctions effectively.

22. States should be encouraged to cooperate in exchanging information about the legislative, administrative and practical implementation of sanctions.



General Assembly

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Sixty-fourth session
Agenda item 83

The rule of law at the national and international levels

Report of the Sixth Committee

Rapporteur: Mr. Jean-Cédric **Janssens de Bisthoven** (Belgium)

I. Introduction

1. The item entitled "The rule of law at the national and international levels" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly resolution 63/128 of 11 December 2008.
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 8th, 9th, 10th, 24th and 25th meetings, on 14 and 15 October and on 4 and 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.8, 9, 10, 24 and 25).
4. For its consideration of the item, the Committee had before it the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/64/298).

II. Consideration of draft resolution A/C.6/64/L.14

5. At the 24th meeting, on 4 November, the representative of Liechtenstein, on behalf of the Bureau, introduced a draft resolution entitled "The rule of law at the national and international levels" (A/C.6/64/L.14).
6. At the 25th meeting, on 12 November, the Committee adopted draft resolution A/C.6/64/L.14 without a vote (see para. 7).



III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 63/128 of 11 December 2008,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming also the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and of its Member States,

Recalling paragraph 134 (e) of the 2005 World Summit Outcome,¹

1. *Takes note* of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities;²

2. *Reaffirms* the role of the General Assembly in encouraging the progressive development of international law and its codification, and reaffirms further that States shall abide by all their obligations under international law;

¹ See resolution 60/1.

² A/64/298.

3. *Stresses* the importance of adherence to the rule of law at the national level, and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, based on greater coordination and coherence within the United Nations system and among donors, and calls for greater evaluation of the effectiveness of such activities;
4. *Calls upon* the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement;
5. *Expresses full support* for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system within existing mandates, supported by the Rule of Law Unit in the Executive Office of the Secretary-General, under the leadership of the Deputy Secretary-General;
6. *Requests* the Secretary-General to submit his next annual report on United Nations rule of law activities, in accordance with paragraph 5 of resolution 63/128, taking note of paragraph 97 of the report;³
7. *Welcomes* the dialogue initiated by the Rule of Law Coordination and Resource Group and the Rule of Law Unit with Member States on the topic "Promoting the rule of law at the international level", and calls for the continuation of this dialogue with a view to fostering the rule of law at the international level;
8. *Encourages* the Secretary-General and the United Nations system to accord high priority to rule of law activities;
9. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;
10. *Invites* the Rule of Law Coordination and Resource Group and the Rule of Law Unit to continue to interact with Member States on a regular basis, in particular in informal briefings;
11. *Stresses* the need to provide the Rule of Law Unit with the necessary funding and staff in order to enable it to carry out its tasks in an effective and sustainable manner and urges the Secretary-General and Member States to continue to support the functioning of the Unit;
12. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "The rule of law at the national and international levels", invites Member States to focus their comments in the upcoming Sixth Committee debate on the sub-topic "Laws and practices of Member States in implementing international law",³ without prejudice to the consideration of the item as a whole, and invites the Secretary-General to provide information on this sub-topic in his report, after seeking the views of Member States.

³ See the note by the Chairman of the Sixth Committee (A/C.6/63/L.23). See also paragraph 10 of resolution 63/128 in which the sub-topic "Rule of law and transitional justice in conflict and post-conflict situations" was identified as a sub-topic for the sixty-sixth session.

**General Assembly**

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Sixty-fourth session
Agenda item 84

The scope and application of the principle of universal jurisdiction**Report of the Sixth Committee**

Rapporteur: Mr. Jean-Cédric Janssens de Bisthoven (Belgium)

I. Introduction

1. The item entitled "The scope and application of the principle of universal jurisdiction" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly decision 63/568 of 14 September 2009.
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 12th, 13th and 25th meetings, on 20 and 21 October and on 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.12, 13 and 25).

II. Consideration of draft resolution A/C.6/64/L.18

4. At the 25th meeting, on 12 November 2009, the representative of Rwanda, on behalf of the Bureau, introduced a draft resolution entitled "The scope and application of the principle of universal jurisdiction" (A/C.6/64/L.18).
5. At the same meeting, the Committee adopted draft resolution A/C.6/64/L.18 without a vote (see para. 6). After the adoption of the draft resolution, the representative of the Sudan made a statement in explanation of position (see A/C.6/64/SR.25).



III. Recommendation of the Sixth Committee

6. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The scope and application of the principle of universal jurisdiction

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations, to international law and to an international order based on the rule of law, which is essential for peaceful coexistence and cooperation among States,

1. *Requests* the Secretary-General to invite Member States to submit, before 30 April 2010, information and observations on the scope and application of the principle of universal jurisdiction, including information on the relevant applicable international treaties, their domestic legal rules and judicial practice, and to prepare and submit to the General Assembly, at its sixty-fifth session, a report based on such information and observations;

2. *Decides* that the Sixth Committee shall continue its consideration of the scope and application of the principle of universal jurisdiction, without prejudice to the consideration of related issues in other forums of the United Nations;

3. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "The scope and application of the principle of universal jurisdiction".



General Assembly

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Sixty-fourth session
Agenda item 106

Measures to eliminate international terrorism

Report of the Sixth Committee

Rapporteur: Mr. Jean-Cédric Janssens de Bisthoven (Belgium)

I. Introduction

1. The item entitled "Measures to eliminate international terrorism" was included in the provisional agenda of the sixty-fourth session of the General Assembly pursuant to Assembly resolution 63/129 of 11 December 2008.

2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 2nd to 5th, 14th, 24th and 25th meetings, on 6, 7, 9 and 23 October and on 4 and 12 November 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.2-5, 14, 24 and 25).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996;¹

(b) Report of the Secretary-General on measures to eliminate international terrorism (A/64/161 and Add.1).

5. At its 1st meeting, on 5 October, the Sixth Committee established a Working Group to continue to carry out the mandate of the Ad Hoc Committee established by General Assembly resolution 51/210, as contained in resolution 63/129. At the same meeting, the Committee elected Mr. Rohan Perera (Sri Lanka) as Chairman of the Working Group. The Working Group held two meetings, on 9 and 15 October.

¹ Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 37 (A/64/37).



6. At the 2nd meeting of the Sixth Committee, on 6 October, the Chairman of the Ad Hoc Committee established by General Assembly resolution 51/210 introduced the report of the Ad Hoc Committee; and at the 14th meeting, on 23 October, the Chairman of the Working Group presented an oral report on the work of the Working Group and on the results of the informal consultations held during the current session on 9, 12 and 22 October (see A/C.6/64/SR.2 and 14).

II. Consideration of draft resolution A/C.6/64/L.12

7. At the 24th meeting, on 4 November, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled "Measures to eliminate international terrorism" (A/C.6/64/L.12).

8. At the 25th meeting, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

9. At the same meeting, before the adoption of the draft resolution, the representatives of Egypt, the Syrian Arab Republic, Cuba and Iran (Islamic Republic of) made statements in explanation of position (see A/C.6/64/SR.25).

10. Also at the same meeting, the Committee adopted draft resolution A/C.6/64/L.12 without a vote (see para. 11).

III. Recommendation of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming, in all its aspects, the United Nations Global Counter-Terrorism Strategy adopted on 8 September 2006,¹ enhancing the overall framework for the efforts of the international community to effectively counter the scourge of terrorism in all its forms and manifestations, and recalling the first biennial review of the Strategy, on 4 and 5 September 2008, and the debates that were held on that occasion,²

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,³

Recalling also the United Nations Millennium Declaration,⁴

Recalling further the 2005 World Summit Outcome,⁵ and reaffirming in particular the section on terrorism,

Recalling the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to Assembly resolution 51/210 of 17 December 1996,

Recalling also all General Assembly resolutions on measures to eliminate international terrorism and Security Council resolutions on threats to international peace and security caused by terrorist acts,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001, as well as Security Council resolutions 1368 (2001) of 12 September 2001, 1373 (2001) of 28 September 2001 and 1377 (2001) of 12 November 2001, and those that have occurred since,

¹ Resolution 60/288.

² See A/62/PV.117-120.

³ See resolution 50/6.

⁴ See resolution 55/2.

⁵ See resolution 60/1.

Recalling the strong condemnation of the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission for Iraq in Baghdad on 19 August 2003 in General Assembly resolution 57/338 of 15 September 2003 and Security Council resolution 1502 (2003) of 26 August 2003,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and must adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and suppress effectively international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and dialogue among civilizations and the enhancement of interfaith and intercultural understanding are among the most important elements in promoting cooperation and success in combating terrorism, and welcoming the various initiatives to this end,

Reaffirming that no terrorist act can be justified in any circumstances,

Recalling Security Council resolution 1624 (2005) of 14 September 2005, and bearing in mind that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Taking note of recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, including those of the African Union, the ASEAN Regional Forum, the Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Bali Counter-Terrorism Process, the Central American Integration System, the Collective Security Treaty Organization, the Common Market for Eastern and Southern Africa, the

Cooperation Council for the Arab States of the Gulf, the Council of Europe, the East African Community, the Economic Community of West African States, the Euro-Mediterranean Partnership, the European Free Trade Association, the European Union, the Group of Eight, the Intergovernmental Authority on Development, the International Maritime Organization, the International Civil Aviation Organization, the League of Arab States, the Movement of Non-Aligned Countries, the North Atlantic Treaty Organization, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of American States, the Organization of the Islamic Conference, the Pacific Islands Forum, the Shanghai Cooperation Organization, the Southern African Development Community and the World Customs Organization.

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of, and adherence to, regional conventions,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004, 60/43 of 8 December 2005, 61/40 of 4 December 2006, 62/71 of 6 December 2007 and 63/129 of 11 December 2008 that the Ad Hoc Committee established by General Assembly resolution 51/210 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling also the Final Document of the Fifteenth Summit Conference of Heads of State and Government of the Movement of Non-Aligned Countries, adopted in Sharm el-Sheikh, Egypt, on 16 July 2009,⁶ which reiterated the collective position of the Non-Aligned Movement on terrorism and reaffirmed its previous initiative calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,⁷ as well as other relevant initiatives,

aware of its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007 and 63/185 of 18 December 2008,

Having examined the report of the Secretary-General,⁸ the report of the Ad Hoc Committee established by General Assembly resolution 51/210⁹ and the oral report of the Chairperson of the Working Group established by the Sixth Committee at the sixty-fourth session of the Assembly,¹⁰

1. *Strongly condemns* all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

⁶ A/63/965-S/2009/514, annex.

⁷ See A/53/667-S/1998/1071, annex I paras. 149-162.

⁸ A/64/161 and Add.1.

⁹ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17* (A/64/57).

¹⁰ *Ibid.*, Sixty-fourth Session, Sixth Committee, 14th meeting (A/C.6/64/SR.14).

2. *Calls upon* all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy,¹¹ as well as the resolution relating to the first biennial review of the Strategy,¹² in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise;

3. *Recalls* the pivotal role of the General Assembly in following up the implementation and the updating of the Strategy, and in this regard also recalls its invitation to the Secretary-General to contribute to the future deliberations of the Assembly, and requests the Secretary-General when doing so to provide information on relevant activities within the Secretariat to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

4. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

5. *Reiterates its call* upon all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (a) to (f) of General Assembly resolution 51/210;

6. *Also reiterates its call* upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

7. *Reiterates its call* upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

8. *Urges* States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

9. *Reminds* States of their obligations under relevant international conventions and protocols and Security Council resolutions, including Council resolution 1373 (2001), to ensure that perpetrators of terrorist acts are brought to justice;

10. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

11. *Recalls* the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism,¹² the Amendment to the Convention on the Physical

¹¹ Resolution 62/272.

¹² Resolution 59/290, annex.

Protection of Nuclear Material,¹³ the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation¹⁴ and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf,¹⁵ and urges all States to consider, as a matter of priority, becoming parties to these instruments;

12. *Urges* all States that have not yet done so to consider, as a matter of priority and in accordance with Security Council resolution 1373 (2001) and Council resolution 1566 (2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings,¹⁶ the International Convention for the Suppression of the Financing of Terrorism,¹⁷ the International Convention for the Suppression of Acts of Nuclear Terrorism and the Amendment to the Convention on the Physical Protection of Nuclear Material, and calls upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

13. *Urges* States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 12 above;

14. *Notes with appreciation and satisfaction* that, consistent with the call contained in paragraphs 11 and 12 of General Assembly resolution 63/129, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

15. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism¹⁸ and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism,¹⁹ and calls upon all States to implement them;

16. *Calls upon* all States to cooperate to prevent and suppress terrorist acts;

17. *Urges* all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

¹³ Adopted on 8 July 2005 by the Conference to Consider Proposed Amendments to the Convention on the Physical Protection of Nuclear Material.

¹⁴ Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG.CONF.15/21).

¹⁵ Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG.CONF.15/22).

¹⁶ United Nations, *Treaty Series*, vol. 2149, No. 37517.

¹⁷ *Ibid.*, vol. 2178, No. 38349.

¹⁸ Resolution 49/60, annex.

¹⁹ Resolution 51/210, annex.

18. *Requests* the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna to continue its efforts to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1373 (2001), its role in assisting States in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism, including the most recent among them, and in strengthening international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;

19. *Welcomes* the current efforts by the Secretariat to prepare the third edition of the publication *International Instruments related to the Prevention and Suppression of International Terrorism* in all official languages;

20. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

21. *Notes* the progress made in the elaboration of the draft comprehensive convention on international terrorism during the meetings of the Ad Hoc Committee established by General Assembly resolution 51/210 and of the Working Group established by the Sixth Committee during the sixty-fourth session of the Assembly, and welcomes continuing efforts to that end;

22. *Decides* that the Ad Hoc Committee shall, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism and shall continue to discuss the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations;

23. *Also decides* that the Ad Hoc Committee shall meet from 12 to 16 April 2010 in order to fulfil the mandate referred to in paragraph 22 above;

24. *Requests* the Secretary-General to continue to provide the Ad Hoc Committee with the facilities necessary for the performance of its work;

25. *Requests* the Ad Hoc Committee to report to the General Assembly at its sixty-fourth session in the event of the completion of the draft comprehensive convention on international terrorism;

26. *Also requests* the Ad Hoc Committee to report to the General Assembly at its sixty-fifth session on progress made in the implementation of its mandate;

27. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "Measures to eliminate international terrorism".



General Assembly

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Sixty-fourth session
Agenda item 142

Administration of justice at the United Nations

Report of the Sixth Committee

Rapporteur: Mr. Jean-Cédric Janssens de Bisthoven (Belgium)

I. Introduction

1. By its decision 63/531 of 11 December 2008, the General Assembly decided to include in the provisional agenda of its sixty-fourth session the item entitled "Administration of justice at the United Nations".
2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided, in the light of resolution 63/253 and decision 63/531, to include the item in its agenda and to allocate it to the Fifth Committee for its consideration and to the Sixth Committee for the purpose of considering the legal aspects of the reports to be submitted under this item, including the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.
3. The Sixth Committee considered the item at its 1st and 12th meetings, on 5 and 20 October 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.1 and 12).
4. For its consideration of the item, the Committee had before it the following documents:
 - (a) Report of the Ad Hoc Committee on the Administration of Justice at the United Nations (A/64/55);
 - (b) Report of the Secretary-General on the approval of the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal (A/64/229);
 - (c) Report of the Secretary-General on the practice of the Secretary-General in disciplinary matters and possible criminal behaviour, 1 July 2008 to 30 June 2009 (A/64/269);



(d) Report of the Secretary-General on the outcome of the work of the Joint Appeals Board during 2007 and 2008 and between January and June 2009 and statistics on the disposition of cases and work of the Panel of Counsel (A/64/292);

(e) Report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/64/314).

5. On the recommendation of the Ad Hoc Committee on the Administration of Justice at the United Nations, the Sixth Committee decided, at its 1st meeting, on 5 October, to establish a Working Group on the Administration of Justice at the United Nations, in order to fulfil the mandate conferred by the General Assembly on the Committee, namely the consideration of the legal aspects of the reports to be submitted under this item, including the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. At the same meeting, the Committee elected Mr. Ganeson Sivagurunathan (Malaysia) as Chairman of the Working Group and decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held four meetings, on 5, 6 and 9 October 2009.

6. Also at the 1st meeting of the Sixth Committee, the Chairman of the Ad Hoc Committee on the Administration of Justice at the United Nations introduced the report of the Ad Hoc Committee.

7. At the 12th meeting of the Sixth Committee, on 20 October, Mr. Esmail Baghaei Hamaneh (Islamic Republic of Iran), Vice-Chairman of the Sixth Committee, presented, on behalf of the Chairman of the Working Group of the Sixth Committee on the Administration of Justice at the United Nations, an oral report on the work of the Working Group (see A/C.6/64/SR.12).

II. Consideration of draft resolution A/C.6/64/L.2 and draft decision A/C.6/64/L.3

8. At the 12th meeting of the Sixth Committee, on 20 October, Mr. Esmail Baghaei Hamaneh (Islamic Republic of Iran), Vice-Chairman of the Sixth Committee, introduced, on behalf of the Chairman of the Working Group of the Sixth Committee on the Administration of Justice at the United Nations, a draft resolution and a draft decision, both entitled "Administration of justice at the United Nations" (A/C.6/64/L.2 and A/C.6/64/L.3, respectively).

9. At the same meeting, the Committee adopted draft resolution A/C.6/64/L.2 and draft decision A/C.6/64/L.3 without a vote (see paras. 11 and 12).

10. Also at the same meeting, the Committee decided that its Chairman would send to the President of the General Assembly a letter indicating a number of elements that, in the view of the Committee, should be included in the report to be submitted by the Secretary-General pursuant to paragraph 59 of General Assembly resolution 63/253, for consideration at the sixty-fifth session of the Assembly. It was further decided that the Chairman of the Sixth Committee would request that the letter be brought to the attention of the Chairman of the Fifth Committee and circulated as a document of the General Assembly.

III. Recommendations of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Administration of justice at the United Nations

The General Assembly,

Recalling its resolution 63/253 of 24 December 2008, by which it adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as set out in annexes I and II to that resolution,

Recalling also article 7, paragraph 1, of the statute of the United Nations Dispute Tribunal and article 6, paragraph 1, of the statute of the United Nations Appeals Tribunal, by virtue of which, subject to the provisions of the respective statutes, each Tribunal shall establish its own rules of procedure, which shall be subject to approval by the General Assembly,

Recalling further its request that the Secretary-General submit, for approval, the rules of procedure of the Tribunals as soon as possible but no later than at its sixty-fourth session, and its decision that until then the Tribunals may apply the rules of procedure on a provisional basis,¹

Having considered the report of the Secretary-General on approval of the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, containing the rules of procedure established by the respective Tribunals on 26 June 2009,²

Approves the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as set out in annexes I and II to the present resolution.

Annex I

Rules of procedure of the United Nations Dispute Tribunal

Contents

Article 1	Election of the President
Article 2	Plenary meeting
Article 3	Commencement of office
Article 4	Venue
Article 5	Consideration by a panel
Article 6	Filing of cases
Article 7	Time limits for filing applications

¹ See resolution 63/253, para. 29.

² A/64/229.

Article 8	Applications
Article 9	Summary judgement
Article 10	Reply
Article 11	Joining of a party
Article 12	Representation
Article 13	Suspension of action during a management evaluation
Article 14	Suspension of action during the proceedings
Article 15	Referral to mediation
Article 16	Hearing
Article 17	Oral evidence
Article 18	Evidence
Article 19	Case management
Article 20	Remand of case for the institution or correction of the required procedure
Article 21	Registry
Article 22	Intervention by persons not party to the case
Article 23	Intervention procedure
Article 24	Friend-of-the-court briefs
Article 25	Judgements
Article 26	Publication of judgements
Article 27	Conflict of interest
Article 28	Recusal
Article 29	Revision of judgements
Article 30	Interpretation of judgements
Article 31	Correction of judgements
Article 32	Execution of judgements
Article 33	Titles
Article 34	Calculation of time limits
Article 35	Waiver of time limits
Article 36	Procedural matters not covered in the rules of procedure

Article 37 Amendment of the rules of procedure

Article 38 Entry into force

Article 1

Election of the President

1. The Dispute Tribunal shall elect a President from among the full-time judges, for a renewable term of one year, to direct the work of the Tribunal and of the Registries, in accordance with the statute of the Dispute Tribunal.
2. Until otherwise decided by the Dispute Tribunal:
 - (a) The election shall occur at a plenary meeting every year and the President shall take up his or her duties upon election;
 - (b) The retiring President shall remain in office until his or her successor is elected;
 - (c) If the President should cease to be a judge of the Dispute Tribunal, should resign his or her office before the expiration of the normal term or is unable to act, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term;
 - (d) Elections shall be by majority vote. Any judge who cannot attend for that purpose is entitled to vote by correspondence.

Article 2

Plenary meeting

1. The Dispute Tribunal shall normally hold a plenary meeting once a year to deal with questions affecting the administration or operation of the Dispute Tribunal.
2. Three judges shall constitute a quorum for plenary meetings of the Dispute Tribunal.

Article 3

Commencement of office

Unless otherwise decided by the General Assembly, the term of office of the judges of the Dispute Tribunal shall commence on the first day of July following their appointment by the General Assembly.

Article 4

Venue

The judges of the Dispute Tribunal shall exercise their functions in New York, Geneva and Nairobi respectively. However, the Dispute Tribunal may decide to hold sessions at other duty stations as required.

Article 5

Consideration by a panel

1. Except in cases falling under article 5.2 below, cases shall be considered by a single judge.

2. As provided for in its statute, the Dispute Tribunal may refer any case to a panel of three judges for a decision.
3. If a case is examined by a panel of three judges, the decision shall be taken by majority vote. Any concurring, separate or dissenting opinion shall be recorded in the judgement.

Article 6

Filing of cases

1. An application shall be filed at a Registry of the Dispute Tribunal, taking into account geographical proximity and any other relevant material considerations.
2. The Dispute Tribunal shall assign cases to the appropriate Registry. A party may apply for a change of venue.

Article 7

Time limits for filing applications

1. Applications shall be submitted to the Dispute Tribunal through the Registrar within:
 - (a) 90 calendar days of the receipt by the applicant of the management evaluation, as appropriate;
 - (b) 90 calendar days of the relevant deadline for the communication of a response to a management evaluation, namely, 30 calendar days for disputes arising at Headquarters and 45 calendar days for disputes arising at other offices; or
 - (c) 90 calendar days of the receipt by the applicant of the administrative decision in cases where a management evaluation of the contested decision is not required.
2. Any person making claims on behalf of an incapacitated or deceased staff member of the United Nations, including the Secretariat and separately administered funds and programmes, shall have one calendar year to submit an application.
3. Where the parties have sought mediation of their dispute, the application shall be receivable if filed within 90 calendar days after mediation has broken down.
4. Where an application is filed to enforce the implementation of an agreement reached through mediation, the application shall be receivable if filed within 90 calendar days of the last day for implementation as specified in the mediation agreement or, when the mediation agreement is silent on the matter, after 30 calendar days from the date of the signing of the agreement.
5. In exceptional cases, an applicant may submit a written request to the Dispute Tribunal seeking suspension, waiver or extension of the time limits referred to in article 7.1 above. Such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request. The request shall not exceed two pages in length.
6. In accordance with article 8.4 of the statute of the Dispute Tribunal, no application shall be receivable if filed more than three years after the applicant's receipt of the contested administrative decision.

Article 8

Applications

1. An application may be submitted on an application form to be prescribed by the Registrar.
2. The application should include the following information:
 - (a) The applicant's full name, date of birth and nationality;
 - (b) The applicant's employment status (including United Nations index number and department, office and section) or relationship to the staff member if the applicant is relying on the staff member's rights;
 - (c) Name of the applicant's legal representative (with authorization attached);
 - (d) The address to which documents should be sent;
 - (e) When and where the contested decision, if any, was taken (with the contested decision attached);
 - (f) Action and remedies sought;
 - (g) Any supporting documentation (annexed and numbered, including, if translated, an indication thereof).
3. The signed original application form and the annexes thereto shall be submitted together. The documents may be transmitted electronically.
4. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the application to the respondent and to any other party a judge considers appropriate. If the formal requirements of the article are not fulfilled, the Registrar may require the applicant to comply with the requirements of the article within a specified period of time. Once the corrections have been properly made, the Registrar shall transmit a copy of the application to the respondent.

Article 9

Summary judgement

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate.

Article 10

Reply

1. The respondent's reply shall be submitted within 30 calendar days of the date of receipt of the application by the respondent. The signed original reply and the annexes thereto shall be submitted together. The document may be transmitted electronically. A respondent who has not submitted a reply within the requisite period shall not be entitled to take part in the proceedings, except with the permission of the Dispute Tribunal.

2. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the response to the applicant and to any other party a judge considers appropriate. If the formal requirements of the article are not fulfilled, the Registrar may require the respondent to comply with the requirements of the article within a specified period of time. Once the corrections have been properly made, the Registrar shall transmit a copy of the reply to the applicant.

Article 11

Joining of a party

The Dispute Tribunal may at any time, either on the application of a party or on its own initiative, join another party if it appears to the Dispute Tribunal that that party has a legitimate interest in the outcome of the proceedings.

Article 12

Representation

1. A party may present his or her case to the Dispute Tribunal in person, or may designate counsel from the Office of Staff Legal Assistance or counsel authorized to practice law in a national jurisdiction.
2. A party may also be represented by a staff member or a former staff member of the United Nations or one of the specialized agencies.

Article 13

Suspension of action during a management evaluation

1. The Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.
2. The Registrar shall transmit the application to the respondent.
3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.
4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 14

Suspension of action during the proceedings

1. At any time during the proceedings, the Dispute Tribunal may order interim measures to provide temporary relief where the contested administrative decision appears *prima facie* to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.
2. The Registrar shall transmit the application to the respondent.

3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.
4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 15

Referral to mediation

1. At any time during the proceedings, including at the hearing, the Dispute Tribunal may propose to the parties that the case be referred for mediation and suspend the proceedings.
2. Where the judge proposes and the parties consent to mediation, the Dispute Tribunal shall send the case to the Mediation Division in the Office of the Ombudsman for consideration.
3. Where parties on their own initiative decide to seek mediation, they shall promptly inform the Registry in writing.
4. Upon referral of a case to the Mediation Division, the concerned Registry shall forward the case file to the Mediation Division. The proceedings will be suspended during mediation.
5. The time limit for mediation normally shall not exceed three months. However, after consultation with the parties, where the Mediation Division considers it appropriate, it will notify the Registry that the informal efforts will require additional time.
6. It shall be the responsibility of the Mediation Division to apprise the Dispute Tribunal of the outcome of the mediation in a timely manner.
7. All documents prepared for and oral statements made during any informal conflict-resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Dispute Tribunal. No mention shall be made of any mediation efforts in documents or written pleadings submitted to the Dispute Tribunal or in any oral arguments made before the Dispute Tribunal.

Article 16

Hearing

1. The judge hearing a case may hold oral hearings.
2. A hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure.
3. The Registrar shall notify the parties of the date and time of a hearing in advance and confirm the names of witnesses or expert witnesses for the hearing of a particular case.
4. The parties or their duly designated representatives must be present at the hearing either in person or, where unavailable, by video link, telephone or other electronic means.
5. If the Dispute Tribunal requires the physical presence of a party or any other person at the hearing, the necessary costs associated with the travel and accommodation of the party or other person shall be borne by the Organization.

6. The oral proceedings shall be held in public unless the judge hearing the case decides, at his or her own initiative or at the request of one of the parties, that exceptional circumstances require that the oral proceedings be closed. If appropriate in the circumstances, the oral hearing may be held by video link, telephone or other electronic means.

Article 17

Oral evidence

1. The parties may call witnesses and experts to testify. The opposing party may cross-examine witnesses and experts. The Dispute Tribunal may examine witnesses and experts called by either party and may call any other witnesses or experts it deems necessary. The Dispute Tribunal may make an order requiring the presence of any person or the production of any document.
2. The Dispute Tribunal may, if it considers it appropriate in the interest of justice to do so, proceed to determine a case in the absence of a party.
3. Each witness shall make the following declaration before giving his or her statement: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."
4. Each expert shall make the following declaration before giving his or her statement: "I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief."
5. Any party may object to the testimony of a given witness or expert, stating reasons for such objection. The Dispute Tribunal shall decide on the matter. Its decision shall be final.
6. The Dispute Tribunal shall decide whether the personal appearance of a witness or expert is required at oral proceedings and determine the appropriate means for satisfying the requirement for personal appearance. Evidence may be taken by video link, telephone or other electronic means.

Article 18

Evidence

1. The Dispute Tribunal shall determine the admissibility of any evidence.
2. The Dispute Tribunal may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings.
3. A party wishing to submit evidence that is in the possession of the opposing party or of any other entity may, in the initial application or at any stage of the proceedings, request the Dispute Tribunal to order the production of the evidence.
4. The Dispute Tribunal may, at the request of either party, impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances.
5. The Dispute Tribunal may exclude evidence which it considers irrelevant, frivolous or lacking in probative value. The Dispute Tribunal may also limit oral testimony as it deems appropriate.

Article 19

Case management

The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

Article 20

Remand of case for the institution or correction of the required procedure

Prior to a determination of the merits of a case, should the Dispute Tribunal find that a relevant procedure prescribed in the Staff Regulations and Rules or applicable administrative issuances has not been observed, the Tribunal may, with the concurrence of the Secretary-General, remand the case for the institution or correction of the required procedure, which, in any case, should not take longer than three months. In such cases, the Dispute Tribunal may order the payment of compensation to the applicant for such loss as may have been caused by the procedural delay. The compensation is not to exceed the equivalent of three months' net base salary.

Article 21

Registry

1. The Dispute Tribunal shall be supported by Registries, which shall provide all necessary administrative and support services to it.

2. The Registries shall be established in New York, Geneva and Nairobi. Each Registry shall be headed by a Registrar appointed by the Secretary-General and such other staff as is necessary.

3. The Registrars shall discharge the duties set out in the rules of procedure and shall support the work of the Dispute Tribunal at the direction of the President or the judge at each location. In particular, the Registrars shall:

(a) Transmit all documents and make all notifications required in the rules of procedure or required by the President in connection with proceedings before the Dispute Tribunal;

(b) Establish for each case a master Registry file, which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof and the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;

(c) Perform any other duties that are required by the President or the judge for the efficient functioning of the Dispute Tribunal.

4. A Registrar, if unable to act, shall be replaced by an official appointed by the Secretary-General.

Article 22

Intervention by persons not party to the case

1. Any person for whom recourse to the Dispute Tribunal is available under article 2.4 of the statute may apply, on an application form to be prescribed by the

Registrar, to intervene in a case at any stage thereof on the grounds that he or she has a right that may be affected by the judgement to be issued by the Dispute Tribunal.

2. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the application for intervention to the applicant and to the respondent.

3. The Dispute Tribunal shall decide on the admissibility of the application for intervention. Such decision shall be final and shall be communicated to the intervener and the parties by the Registrar.

4. The Dispute Tribunal shall establish the modalities of the intervention. If admissible, the Dispute Tribunal shall decide which documents, if any, relating to the proceedings are to be transmitted to the intervener by the Registrar and shall fix a time by which any written submissions must be submitted by the intervener. It shall also decide whether the intervener shall be permitted to participate in any oral proceedings.

Article 23

Intervention procedure

An application for intervention shall be submitted on a prescribed form, the signed original of which shall be submitted to the Registrar. It may be transmitted electronically.

Article 24

Friend-of-the-court briefs

1. A staff association may submit a signed application to file a friend-of-the-court brief on a form to be prescribed by the Registrar, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties, who shall have three days to file any objections, which shall be submitted on a prescribed form.

2. The President or the judge hearing the case may grant the application if it considers that the filing of the brief would assist the Dispute Tribunal in its deliberations. The decision will be communicated to the applicant and the parties by the Registrar.

Article 25

Judgements

1. Judgements shall be issued in writing and shall state the reasons, facts and law on which they are based.

2. When a case is decided by a panel of three judges, a judge may append a separate, dissenting or concurring opinion.

3. Judgements shall be drawn up in any official language of the United Nations, two signed originals of which shall be deposited in the archives of the United Nations.

4. The Registrars shall transmit a copy of the judgement to each party. An individual applicant or respondent shall receive a copy of the judgement in the

language in which the original application was submitted, unless he or she requests a copy in another official language of the United Nations.

5. The Registrars shall send to all judges of the Dispute Tribunal copies of all the judgements of the Dispute Tribunal.

Article 26

Publication of judgements

1. The Registrars shall arrange for publication of the judgements of the Dispute Tribunal on the website of the Dispute Tribunal after they are delivered.

2. The judgements of the Dispute Tribunal shall protect personal data and shall be available at the Registry of the Dispute Tribunal.

Article 27

Conflict of interest

1. The term "conflict of interest" means any factor that may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case assigned to him or her.

2. A conflict of interest arises where a case assigned to a judge involves any of the following:

(a) A person with whom the judge has a personal, familiar or professional relationship;

(b) A matter in which the judge has previously served in another capacity, including as an adviser, counsel, expert or witness;

(c) Any other circumstances that would make it appear to a reasonable and impartial observer that the judge's participation in the adjudication of the matter would be inappropriate.

Article 28

Recusal

1. A judge of the Dispute Tribunal who has or appears to have a conflict of interest as defined in article 27 of the rules of procedure shall recuse himself or herself from the case and shall so inform the President.

2. A party may make a reasoned request for the recusal of a judge on the grounds of a conflict of interest to the President of the Dispute Tribunal, who, after seeking comments from the judge, shall decide on the request and shall inform the party of the decision in writing. A request for recusal of the President shall be referred to a three-judge panel for decision.

3. The Registrar shall communicate the decision to the parties concerned.

Article 29

Revision of judgements

1. Either party may apply to the Dispute Tribunal for a revision of a judgement on the basis of the discovery of a decisive fact that was, at the time the judgement

was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence.

2. An application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

3. The application for revision will be sent to the other party, who has 30 days after receipt to submit comments to the Registrar.

Article 30

Interpretation of judgements

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a judgement, provided that it is not under consideration by the Appeals Tribunal. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application. The Dispute Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

Article 31

Correction of judgements

Clerical or arithmetical mistakes, or errors arising from any accidental slip or omission, may at any time be corrected by the Dispute Tribunal, either on its own initiative or on the application by any of the parties on a prescribed form.

Article 32

Execution of judgements

1. Judgements of the Dispute Tribunal shall be binding on the parties, but are subject to appeal in accordance with the statute of the Appeals Tribunal. In the absence of such appeal, it shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.

2. Once a judgement is executable under article 11.3 of the statute of the Dispute Tribunal, either party may apply to the Dispute Tribunal for an order for execution of the judgement if the judgement requires execution within a certain period of time and such execution has not been carried out.

Article 33

Titles

The titles of the articles in the rules of procedure are for reference purposes only and do not constitute an interpretation of the article concerned.

Article 34

Calculation of time limits

The time limits prescribed in the rules of procedure:

(a) Refer to calendar days and shall not include the day of the event from which the period runs;

(b) Shall include the next working day of the Registry when the last day of the period is not a working day;

(c) Shall be deemed to have been met if the documents in question were dispatched by reasonable means on the last day of the period.

Article 35

Waiver of time limits

Subject to article 8.3 of the statute of the Dispute Tribunal, the President, or the judge or panel hearing a case, may shorten or extend a time limit fixed by the rules of procedure or waive any rule when the interests of justice so require.

Article 36

Procedural matters not covered in the rules of procedure

1. All matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Dispute Tribunal on the particular case, by virtue of the powers conferred on it by article 7 of its statute.
2. The Dispute Tribunal may issue practice directions related to the implementation of the rules of procedure.

Article 37

Amendment of the rules of procedure

1. The Dispute Tribunal in plenary meeting may adopt amendments to the rules of procedure, which shall be submitted to the General Assembly for approval.
2. The amendments shall operate provisionally until approved by the General Assembly or until they are amended or withdrawn by the Dispute Tribunal in accordance with a decision of the General Assembly.
3. The President, after consultation with the judges of the Dispute Tribunal, may instruct the Registrars to revise any forms from time to time in the light of experience, provided that such modifications are consistent with the rules of procedure.

Article 38

Entry into force

1. The rules of procedure shall enter into force on the first day of the month following their approval by the General Assembly.
2. The rules of procedure shall operate provisionally from the date of their adoption by the Dispute Tribunal until their entry into force.

Annex II

Rules of procedure of the United Nations Appeals Tribunal

Contents

- | | |
|-----------|--|
| Article 1 | Election of the President and Vice-Presidents |
| Article 2 | Functions of the President and Vice-Presidents |
| Article 3 | Composition of the Appeals Tribunal for its sessions |

Article 4	Panels
Article 5	Ordinary and extraordinary sessions
Article 6	Plenary meetings
Article 7	Time limits for filing appeals
Article 8	Appeals
Article 9	Answers
Article 10	Additional documentary evidence, including written testimony
Article 11	Docket of cases
Article 12	Working languages
Article 13	Representation
Article 14	Waiver of rules concerning written pleadings
Article 15	Exclusion of all documents and statements made during mediation
Article 16	Intervention by persons not party to the case
Article 17	Friend-of-the-court briefs
Article 18	Oral proceedings
Article 19	Adoption and issuance of judgements
Article 20	Publication of judgements
Article 21	Registry
Article 22	Conflict of interest
Article 23	Recusal
Article 24	Revision of judgements
Article 25	Interpretation of judgements
Article 26	Correction of judgements
Article 27	Execution of judgements
Article 28	Titles
Article 29	Calculation of time limits
Article 30	Waiver of time limits
Article 31	Procedural matters not covered in the rules of procedure
Article 32	Amendment of the rules of procedure
Article 33	Entry into force

Article 1

Election of the President and Vice-Presidents

1. The Appeals Tribunal shall elect a President, a First Vice-President and a Second Vice-President.
2. Until otherwise decided by the Appeals Tribunal:
 - (a) The election shall occur at a plenary meeting during the Appeals Tribunal's last session each year. The President and Vice-Presidents shall hold office for one year and shall take up their duties upon election;
 - (b) The retiring President and Vice-Presidents shall remain in office until their successors are elected;
 - (c) If a President or a Vice-President should cease to be a judge of the Appeals Tribunal or should resign his or her office before the expiration of the normal term, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term;
 - (d) Elections shall be by majority vote. Any judge who cannot attend for that purpose is entitled to vote by correspondence.

Article 2

Functions of the President and Vice-Presidents

1. The President shall direct the work of the Appeals Tribunal and of the Registry, shall represent the Appeals Tribunal in all administrative matters and shall preside at the meetings of the Appeals Tribunal.
2. If the President is unable to act, he or she shall designate one of the Vice-Presidents to act as President. In the absence of any such designation by the President, the First Vice-President or, in the event of the latter's incapacity, the Second Vice-President shall act as President.
3. The President of the Appeals Tribunal may, within seven calendar days of a written request by the President of the Dispute Tribunal, authorize the referral of a case to a panel of three judges of the Dispute Tribunal, when necessary, by reason of the particular complexity or importance of the case.

Article 3

Composition of the Appeals Tribunal for its sessions

1. Unless otherwise decided by the General Assembly, the term of office of the judges of the Appeals Tribunal shall commence on the first day of July following their appointment by the General Assembly.
2. No member of the Appeals Tribunal can be dismissed by the General Assembly unless the other members unanimously agree that he or she is unsuited for further service.

Article 4

Panels

1. The President shall normally designate a panel of three judges to hear a case or a group of cases.

2. When the President or any two judges sitting on a particular case consider that the case so warrants, the case shall be heard by the whole Appeals Tribunal.

Article 5

Ordinary and extraordinary sessions

1. The Appeals Tribunal shall exercise its functions in New York and shall hold ordinary sessions for the purpose of hearing cases. The Appeals Tribunal shall normally hold two ordinary sessions per calendar year and may decide to hold sessions in Geneva or Nairobi, as required by its caseload.
2. Extraordinary sessions for the consideration of cases may be convened by the President when, in his or her opinion, the number or urgency of the cases requires such sessions. Notice of an extraordinary session shall be given to the members of the Tribunal at least 30 days before the opening date of the session.
3. The President shall decide the date and venue of ordinary and extraordinary sessions after consultation with the Registrar.

Article 6

Plenary meetings

1. The Appeals Tribunal shall normally hold four plenary meetings a year, at the beginning and at the end of each of the regular sessions, to deal with questions affecting the administration or operation of the Appeals Tribunal. It shall elect its officers at a plenary meeting, normally the last one in the calendar year.
2. Four judges shall constitute a quorum for plenary meetings of the Appeals Tribunal.

Article 7

Time limits for filing appeals

1. Appeals instituting proceedings shall be submitted to the Appeals Tribunal through the Registrar within:
 - (a) 45 calendar days of the receipt by a party appealing a judgement of the Dispute Tribunal;
 - (b) 90 calendar days of the date of receipt by a party appealing a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board; or
 - (c) A time limit fixed by the Appeals Tribunal under article 7.2 of the rules of procedure.
2. In exceptional cases, an appellant may submit a written request to the Appeals Tribunal seeking suspension, waiver or extension of the time limits referred to in article 7.1. The written request shall succinctly set out the exceptional reasons that, in the view of the appellant, justify the request. The written request shall not exceed two pages.
3. In accordance with article 7.4 of the statute of the Appeals Tribunal, no application shall be receivable if filed more than one year after the judgement of the Dispute Tribunal.

Article 8

Appeals

1. Appeals shall be submitted on a prescribed form.
2. The appeal form shall be accompanied by:
 - (a) A brief that explains the legal basis of any of the five grounds for appeal set out in article 2.1 of the statute of the Appeals Tribunal that is relied upon or, in the case of an appeal against a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board, a brief containing pleas and an explanatory statement. The brief shall not exceed 15 pages;
 - (b) A copy of each document referred to by the appellant in the appeal, accompanied by a translation into one of the official languages of the United Nations if the original language is not one of the official languages; such documents shall be identified by the word "Annex" at the top of the first page of each document followed by sequential arabic numerals.
3. The signed original appeal form and the annexes thereto shall be submitted together to the Registrar. The documents may be transmitted electronically.
4. After ascertaining that the appeal complies with the requirements of the present article, the Registrar shall transmit a copy of the appeal to the respondent. If the formal requirements of the article are not fulfilled, the Registrar may require the appellant to conform the appeal to the requirements of the article within a specified time. Once the corrections have been properly made, the Registrar shall transmit a copy of the appeal to the respondent.
5. The President may direct the Registrar to inform an appellant that his or her appeal is not receivable because it is not an appeal against either a decision of the Dispute Tribunal or of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board, as the case may be.
6. The filing of an appeal shall suspend the execution of the judgement contested.

Article 9

Answers

1. The respondent's answer shall be submitted on a prescribed form.
2. The answer form shall be accompanied by:
 - (a) A brief, which shall not exceed 15 pages, setting out legal arguments in support of the answer;
 - (b) A copy of each document referred to by the respondent in the answer, accompanied by a translation into one of the official languages of the United Nations if the original language is not one of the official languages; such documents shall be identified by the word "Annex" at the top of the first page of each document and an arabic numeral which follows in sequence the numbering of the annexes to the appeal form referred to in article 8.2 (b).
3. The signed original answer form and the annexes thereto shall be submitted together to the Registrar within 45 days of the date on which the respondent received the appeal transmitted by the Registrar. The documents may be transmitted electronically.

4. Within 15 days of notice of the appeal, a party answering the appeal may serve a notice of cross-appeal with the Appeals Tribunal stating the relief sought and the grounds of the cross-appeal. The cross-appeal may not add new claims.

5. After ascertaining that the answer complies with the requirements of the present article, the Registrar shall transmit a copy of the answer to the appellant. If the formal requirements of the article are not fulfilled, the Registrar may require the respondent to conform the answer to the requirements of the present article within a specified time. Once the corrections have been properly made, the Registrar shall transmit a copy of the answer to the appellant. If the corrections are not submitted within the established time limit, including any extension granted by the Appeals Tribunal, the preliminary proceedings will be considered closed and the Appeals Tribunal will adjudicate the matter on the basis of the appeal lodged by the appellant.

Article 10

Additional documentary evidence, including written testimony

1. A party may seek to submit to the Appeals Tribunal, with an appeal or an answer, documentary evidence, including written testimony, in addition to that contained in the written record. In exceptional circumstances and where the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence, it may receive the additional evidence from a party. On its own volition, the Tribunal may order the production of evidence if it is in the interest of justice and the efficient and expeditious resolution of the case, provided that the Appeals Tribunal shall not receive additional written evidence if it was known to the party seeking to submit the evidence and should have been presented to the Dispute Tribunal.

2. In all other cases where additional findings of fact are needed, the Appeals Tribunal may remand the case to the Dispute Tribunal for further fact-finding. Where the Appeals Tribunal remands a case to the Dispute Tribunal, it may order that the case be considered by a different judge of the Dispute Tribunal.

Article 11

Docket of cases

1. When the President considers the documentation of a case to be sufficiently complete, he or she shall instruct the Registrar to place the case on the docket of cases ready for adjudication by the Appeals Tribunal. The docket for the session shall be communicated to the parties.

2. As soon as the date of opening of the session at which a case listed for hearing has been fixed, the Registrar shall notify the parties thereof.

3. Any request for the adjournment of a case that is listed on the docket shall be decided by the President or, when the Appeals Tribunal is in session, by the judges hearing the case.

Article 12

Working languages

The working languages of the Appeals Tribunal shall be English and French.

Article 13 **Representation**

1. A party may present his or her case before the Appeals Tribunal in person or may designate counsel from the Office of Staff Legal Assistance or counsel authorized to practice law in a national jurisdiction.
2. A party may also be represented by a staff member or a former staff member of the United Nations or one of the specialized agencies.

Article 14 **Waiver of rules concerning written pleadings**

Subject to article 7.4 of the statute of the Appeals Tribunal and provided that the waiver does not affect the substance of the case before the Appeals Tribunal, the President may waive the requirements of any article of the rules of procedure dealing with written proceedings.

Article 15 **Exclusion of all documents and statements made during mediation**

1. Except in cases concerning enforcement of a settlement agreement, all documents prepared for and oral statements made during any informal conflict-resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Appeals Tribunal. No mention shall be made of any mediation efforts in documents or written pleadings submitted to the Appeals Tribunal or in any oral arguments made before the Appeals Tribunal.
2. Subject to the provisions of paragraph 1 above, if a document relating to the mediation process is submitted to the Appeals Tribunal, the Registrar shall return that document to the submitting party. If such information is part of the brief or any other written pleadings submitted to the Appeals Tribunal by a party, all pleadings shall be returned to that party for resubmission to the Appeals Tribunal in compliance with paragraph 1 above.
3. Subject to article 7.4 of the statute of the Appeals Tribunal, the President may fix one non-renewable time limit not exceeding five days for the resubmission of the written pleadings if the initial period for the submission of such pleadings has expired.

Article 16 **Intervention by persons not party to the case**

1. Any person for whom recourse to the Appeals Tribunal is available under article 6.2 (f) of the statute may apply to intervene in a case at any stage thereof on the grounds that his or her rights may have been affected by the judgement of the Dispute Tribunal and might, therefore, be affected by the judgement of the Appeals Tribunal.
2. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the application for intervention to the appellant and to the respondent.
3. The President or, when the Tribunal is in session, the presiding judge of the panel of the Appeals Tribunal hearing the case shall rule on the admissibility of

every application for intervention. Such decision shall be final and shall be communicated to the intervener and the parties by the Registrar.

4. An application for intervention shall be submitted on a prescribed form, the signed original of which shall be submitted to the Registrar. It may be transmitted electronically.

Article 17

Friend-of-the-court briefs

1. A person or organization for whom recourse to the Appeals Tribunal is available and staff associations may submit a signed application to file a friend-of-the-court brief, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties, who shall have three days to file any objections on a prescribed form.

2. The President or the panel hearing the case may grant the application if it considers that the filing of the brief would assist the Appeals Tribunal in its deliberations. The decision will be communicated to the applicant and the parties by the Registrar.

Article 18

Oral proceedings

1. The judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such hearings would assist in the expeditious and fair disposal of the case.

2. The oral proceedings shall be held in public unless the judges hearing the case decide, on their own initiative or at the request of one of the parties, that exceptional circumstances require that the oral proceedings be closed. If appropriate in the circumstances, the oral hearing may be held by electronic means.

Article 19

Adoption and issuance of judgements

1. Judgements shall be adopted by majority vote. All deliberations shall be kept confidential.

2. Judgements shall be issued in writing and shall state the reasons, facts and law on which they are based.

3. A judge may append a separate, dissenting or concurring opinion.

4. Judgements shall be drawn up in any official language of the United Nations, two signed originals of which shall be deposited in the archives of the United Nations.

5. The Registrar shall transmit a copy of the judgement to each party. An individual appellant or respondent shall receive a copy of the judgement in the language of the appeal or answer, as the case may be, unless a copy is requested in another official language of the United Nations.

6. The Registrar shall send to all judges of the Appeals Tribunal copies of all the decisions of the Appeals Tribunal.

Article 20**Publication of judgements**

1. The Registrar shall arrange for publication of the judgements of the Appeals Tribunal on the website of the Appeals Tribunal after they are delivered.
2. The published judgements will normally include the names of the parties.

Article 21**Registry**

1. The Appeals Tribunal shall be supported by a Registry, which shall provide all necessary administrative and support services to it.
2. The Registry shall be established in New York and shall be headed by a Registrar appointed by the Secretary-General and such staff as is necessary.
3. The Registrar shall discharge the duties set out in the rules of procedure and shall support the work of the Appeals Tribunal at the direction of the President. In particular, the Registrar shall:
 - (a) Transmit all documents and make all notifications required in the rules of procedure or required by the President or a panel hearing a case in connection with proceedings before the Appeals Tribunal;
 - (b) Establish for each case a master Registry file, which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof and the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
 - (c) Perform any other duties that are required by the President for the efficient functioning of the Appeals Tribunal and the efficient disposal of its caseload.
4. The Registrar, if unable to act, shall be replaced by an official appointed by the Secretary-General.

Article 22**Conflict of interest**

1. The term "conflict of interest" means any factor that may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case assigned to him or her.
2. A conflict of interest arises where a case assigned to a judge involves any of the following:
 - (a) A person with whom the judge has a personal, familiar or professional relationship;
 - (b) A matter in which the judge has previously served in another capacity, including as an adviser, counsel, expert or witness;
 - (c) Any other circumstances that would make it appear to a reasonable and impartial observer that the judge's participation in the adjudication of the matter would be inappropriate.

Article 23**Recusal**

1. A judge of the Appeals Tribunal who has or appears to have a conflict of interest as defined in article 22 of the rules of procedure shall recuse himself or herself from the case and shall so inform the President.

2. A party may make a reasoned request for the recusal of a judge on the grounds of conflict of interest to the President or the Appeals Tribunal, which, after seeking comments from the judge, shall decide on the request and shall inform the party of the decision in writing.

3. A decision by a judge to recuse himself or herself, or a decision by the President or the Appeals Tribunal to recuse a judge, shall be communicated to the parties concerned by the Registrar.

Article 24**Revision of Judgements**

Either party may apply to the Appeals Tribunal, on a prescribed form, for a revision of a judgement on the basis of the discovery of a decisive fact that was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application for revision will be sent to the other party, who has 30 days to submit comments to the Registrar on a prescribed form. The application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

Article 25**Interpretation of judgements**

Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgement on a prescribed form. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application on a prescribed form. The Appeals Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

Article 26**Correction of Judgements**

Clerical or arithmetical mistakes, or errors arising from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own initiative or on the application by any of the parties on a prescribed form.

Article 27**Execution of judgements**

Where a judgement requires execution within a certain period of time and such execution has not been carried out, either party may apply to the Appeals Tribunal for an order for execution of the judgement.

Article 28**Titles**

The titles to the articles in the rules of procedure are for reference purposes only and do not constitute an interpretation of the article concerned.

Article 29**Calculation of time limits**

The time limits prescribed in the rules of procedure:

- (a) Refer to calendar days, but shall not include the day of the event from which the period runs;
- (b) Shall include the next working day of the Registry when the last day of the period is not a working day;
- (c) Shall be deemed to have been met if the documents in question were dispatched by reasonable means on the last day of the period.

Article 30**Waiver of time limits**

Subject to article 7.4 of the statute of the Appeals Tribunal, the President or the panel hearing a case may shorten or extend a time limit fixed by the rules of procedure or waive any rule when the interests of justice so require.

Article 31**Procedural matters not covered in the rules of procedure**

- 1. All matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Appeals Tribunal on the particular case, by virtue of the powers conferred on it by article 6 of its statute.
- 2. The Appeals Tribunal may issue practice directions related to the implementation of the rules of procedure.

Article 32**Amendment of the rules of procedure**

- 1. The Appeals Tribunal in plenary meeting may adopt amendments to the rules of procedure, which shall be submitted to the General Assembly for approval.
- 2. The amendments shall operate provisionally until approved by the General Assembly.
- 3. The President, after consultation with the judges of the Appeals Tribunal, may instruct the Registrar to revise any forms from time to time in the light of experience, provided that such modifications are consistent with the rules of procedure.

Article 33**Entry into force**

- 1. The rules of procedure shall enter into force on the first day of the month following their approval by the General Assembly.
- 2. The rules of procedure shall operate provisionally from the date of their adoption by the Appeals Tribunal until their entry into force.

12. The Sixth Committee also recommends to the General Assembly the adoption of the following draft decision:

Administration of justice at the United Nations

The General Assembly decides that the consideration of the outstanding legal aspects of the item entitled "Administration of justice at the United Nations" shall be continued during its sixty-fifth session in the framework of a working group of the Sixth Committee, taking into account the results of the deliberations of the Fifth and Sixth Committees on the item, previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-fourth session. The Assembly also decides to include in the provisional agenda of its sixty-fifth session the item entitled "Administration of justice at the United Nations".